

PATENT
Application No. 10/675,602
Attorney Docket: 0076.10

REMARKS

Claims 1-33 are presently pending in the case. Claims 1-4, 6-11, and 21 have been amended. The new claims are supported by the specification and claims as originally filed, for example at page 2 line 30-33.

Reconsideration of the present case in view of the above amendments and the remarks herein is requested.

Claim rejections under 35 USC 103(a)

The Examiner rejected claims 22 and 23 under 35 USC 103(a) as being unpatentable over U.S. Patent 5,816,404 to Seidler (hereinafter Seidler). The rejection is traversed.

Siedler does not render claim 22 unpatentable. The Examiner has failed to establish a prima facie case in that all elements recited in the claim are not accounted for. Claim 22 is to a hole forming device, comprising, inter alia, a plurality of outer blades extending downward from a support member and a member whose distal end includes a plurality of inwardly directed and outwardly facing blades. Seidler only discloses one set of blades (140,142). The Examiner points to elements 141 and 143 as being the member blades. However, elements 141 and 143 are neither blades nor do they meet the requirements set forth in the claim. In addition, Siedler does not disclose outer blades that extend downward at an angle in the range from about 50 degrees to about 80 degrees, as recited in claim 22. It would not have been obvious to one having ordinary skill in the art to modify Siedler as suggested since the Siedler device is used in an entirely different manner than Applicant's claimed invention. For at least these reasons, claim 22 is not rendered unpatentable by Siedler. Claim 23 depends from claim 22 and is also not rendered obvious by Siedler.

The Examiner rejected claims 24-33 under 35 USC 103(a) as being unpatentable over U.S. Patent 4,778,054 to Newell et al (hereinafter Newell et al) in view of Siedler. The rejection is traversed.

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Newell et al and Siedler do not render independent claims 24 and 29 unpatentable. Claim 24 is to an aerosolizing apparatus comprising, inter alia, a hole forming device adapted to form at least one inlet opening and an outlet opening in a cover. Neither Newell et al or Siedler disclose a hole forming device that forms both an inlet opening and an outlet opening in a cover. Therefore, the Examiner has failed to establish a prima facie case of obviousness, and claim 24 is not properly rejected. Claim 29 also includes the recitation and is also improperly rejected. Withdrawal of the rejections of claims 24 and 29 and their dependent claims is requested.

The Examiner rejected claims 1-3 and 8-10 under 35 USC 103(a) as being unpatentable over Newell et al. The rejection is traversed.

Independent claim 1 is not rendered unpatentable by Newell et al. Claim 1 is to a method comprising, inter alia, providing a cutting mechanism having multiple blades and moving the blades through a cover to cut a portion of the cover to create multiple openings in the cover. Newell et al does not disclose or suggest this feature and therefore does not render claim 1 unpatentable. Claims 2, 3, and 8-10 depend from claim 1 and are also not rendered unpatentable by Newell et al.

The Examiner rejected claims 4-7 and 11 under 35 USC 103(a) as being unpatentable over Newell et al in view of Siedler. The rejection is traversed.

Claims 4-7 and 11 depend from claim 1. Claim 1 is not rendered unpatentable by Newell et al as discussed above. Siedler does not make up for the deficiencies of Newell et al in that Siedler also fails to disclose or suggest the creation of multiple openings in a cover. Thus, claims 4-7 and 11 are not rendered unpatentable by Newell et al singly or together with Siedler.

The Examiner rejected claims 12-21 under 35 USC 103(a) as being unpatentable over Newell et al in view of Siedler. The rejection is traversed.

Independent claim 12 is not rendered unpatentable by Newell et al and Siedler. Claim 12 is to a method comprising, inter alia, piercing a cover with outer and inner blades to create outer and inner openings in the cover. This is not disclosed by either Newell et al or Siedler. Thus, the references do not render claim 12 unpatentable. Claims 13-20 depend from

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claim 12 and are not rendered unpatentable for at least the same reasons as the claim from which they depend.

Independent claim 21 is not rendered unpatentable by Newell et al and Siedler, either. Claim 21 is to a method comprising, inter alia, forming multiple openings in a cover. Newell et al and Siedler do not disclose or suggest forming multiple openings in a cover. Thus, claim 21 is not rendered unpatentable by the references.

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Conclusion

The claims are allowable for the reasons given above. Thus, the Examiner is respectfully requested to reconsider the present rejections and allow the presently pending claims. Should the Examiner have any questions, the Examiner is requested to call the undersigned at the number given below.

Respectfully submitted,

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